

**The Indonesian Government's Protection
Of
Its Migrant Domestic Workers**

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The Linguistic Features of Pride in Marlowe's *Dr. Faustus*

Abstract

Working or getting a job is a human need, as well as Indonesia which is dealing with employment opportunity problem. The large population of Indonesia, has contributed to the surplus of workforces, combined with scarcity of jobs at home, has led numbers of Indonesians to seek job abroad. In general, they work in formal and informal sectors. Jobs in formal sector are filled by professional workers who receive adequate training or education, while those in non-formal sector are mostly filled by women domestic workers. In formal sector, the workers tend to have fewer employment-related problems because they know well their rights and obligations while, in non-formal sector, the workers who are mostly uneducated, untrained, and partly illegal tend have various types of problems, ranging from the most simple to the most serious, or even life-threatening problems. Therefore, workers in this non-formal sector deserve more protection.

The mandate of the 1945 Indonesian constitution, one of which states that every citizen shall have the right to work and to a living befitting human beings (Article 27 D Paragraph 2). In addition, Law No.39/2004 also obligates the Indonesian government's protection for migrant workers. This law defines protection for migrant workers as pre-placement, placement, and post-placement.

This paper focuses on Indonesian government's protection of migrant workers, especially women migrant domestic workers (TKI-PLRT).

Keywords:

TKI-PLRT (Women Migrant Domestic Workers), KEMENAKER RI (Ministry of Manpower of the Republic of Indonesia), BNP2TKI (National Board for the Placement and Protection of Indonesian Migrant Workers), PJTKI (Indonesian Migrant Workers Recruitment Agency), PPTKIS (Private Recruitment Agency), Migration (the movement of people from one place to another, either within a country or regions or between states).

1. The Main Factors Causing Indonesian Labor Migration to Other Countries

Indonesia is one country in the world that has a very large population. Based on the 2014 national census, the population of Indonesia is 252,164.8.¹ The very large number of population is the potential strength for national development, but on the other side, Indonesia is facing another problem, i.e. employment opportunities associated with the number of productive age population (15 to 50 years old). This is called the demographic bonus,² i.e. a condition where the number of productive age population in a country is higher than that of unproductive age population. Therefore, the Indonesian government always directs its national development to improve the welfare of its people by reducing poverty and unemployment. In term of economy, people's well-being can be defined by the condition of resources distribution such as capital and land for business opportunities, employment opportunities, as well as the quality of human resources.

As an illustration, in the beginning of the 1998 economic crisis, the national workforces in Indonesia was 93.73 million people, while the number of employment opportunities available was only 87.67 million. This means, at that time, as many as approximately 5.6 million people did not get a job. This figure rose steadily during the economic crisis, even once

reached 11 million people. But then in February 2014, the number of unemployed in Indonesia declined up to 7.15 million people.

Graph 1
The Total Labor Force, Employment, and
Unemployment in 2011-2014
(million people)³

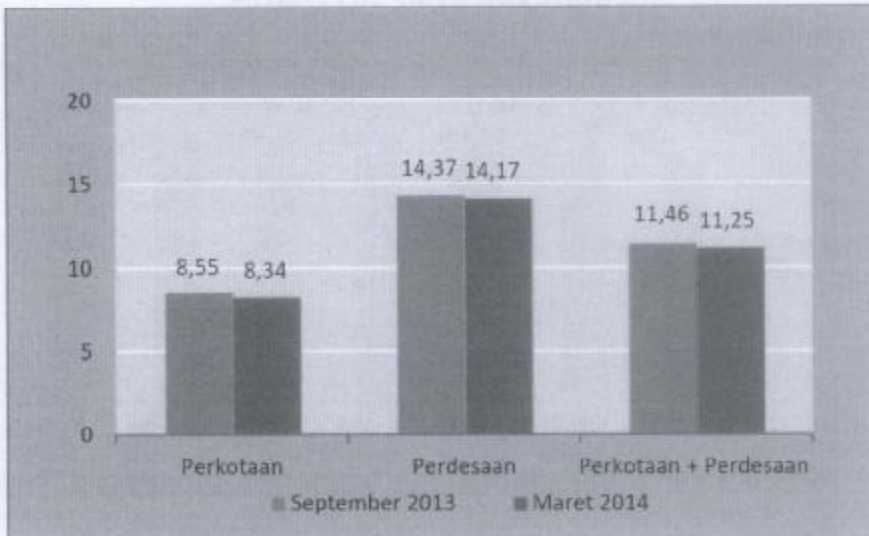


The number of the poor in Indonesia, however, is still very high. In March 2014, the poverty rate still reaches 28.28 million people (11.25 percent). Although this figure is reduced by about 0.32 million people compared to the poor in September 2013 (as many as 28.60 million people) or approximately 11.46%, but the rate is still quite high.

The following graph illustrates the poverty in Indonesia in 2013 and 2014.⁴

Graph 2 The Development of Poor Population Percentage by Region, September 2013 - March 2014

Perkembangan Persentase Penduduk Miskin Menurut Daerah,
September 2013 – Maret 2014



The number of the unemployed in Indonesia which still reaches 7.15 million people indicates the lack of employment opportunities in the country. This has caused numbers of Indonesians to seek fortune abroad in addition to their desire to improve the living standard of themselves and their families. They do understand that unemployment will be perceived negatively by surrounding community. They also believe that their religion does not recommend them to just sit and wait for the mercy of others.

To that end, their expectation for success and prosperous life by working abroad has defeated an overview of the rampant cases of abuse and exploitation of migrant workers. Even, they do not longer take into account the sacrifices they incur in order to work abroad. This is what makes them vulnerable to fraud and inhumane treatment, either when still in

the home country or after being in the destination country. If the government is not keen to organize and supervise this issue, then what will happen is the exploitation and oppression of the migrant workers.

The choice of Indonesian job seekers to work and seek fortune abroad is allowed by the country because in addition to being guaranteed by The 1945 Constitution of the Republic of Indonesia, Law No. 39/1999 on human rights also states that the citizens have the right to freely choose jobs they like. Therefore, citizens cannot be forbidden to work anywhere, including overseas.

It is undeniable that sending workers abroad can reduce national unemployment, improve their welfare, and give other positive economic impacts. But if the government does not provide maximal protection for the migrant workers, then what will happen is just the opposite. This will be able to be seen by the increase in legal cases involving migrant workers. In addition, sending low-skilled or uneducated migrant workers can hurt national pride.

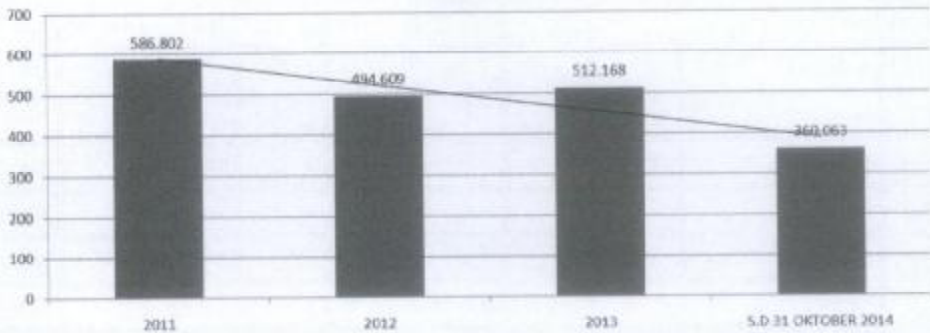
Graph 3
Top 50 Placement Countries for Indonesian Migrant Workers
Placement Per Year Per Country, 2006-2012⁵

No	Employer Countries	Year							Total
		2006	2007	2008	2009	2010	2011	2012	
1	Saudi Arabia	281,087	257,217	234,644	276,633	228,890	137,643	11,814	1,427,928
2	Malaysia	219,658	222,198	187,123	123,886	116,056	134,108	46,296	1,049,325
3	Taiwan	45,706	50,810	59,522	59,335	62,048	73,498	30,669	381,588
4	Singapore	28,661	37,496	21,807	33,077	39,623	47,781	20,430	228,875
5	United Emirate Arab (UEA)	22,685	28,184	38,092	40,391	37,337	39,857	14,274	220,820
6	Hong Kong	20,100	29,973	30,204	32,417	33,262	50,283	18,237	214,476
7	Kuwait	24,600	25,756	29,218	23,041	563	2,723	693	106,594
8	Qatar	7,980	10,449	8,582	10,010	13,559	16,578	8,476	75,634
9	Jordan	10,978	12,062	11,155	10,932	5,695	134	29	50,985
10	Oman	5,210	7,150	8,309	9,700	9,259	7,292	3,375	50,295
11	Brunei Darussalam	8,482	5,852	3,861	4,785	7,360	10,805	5,703	46,848
12	Korea Selatan	4,035	3,830	8,134	1,890	7,596	11,390	6,399	43,274
13	USA	-	1,263	66	47	475	13,746	5,088	20,685
14	Bahrain	639	2,267	2,324	2,837	4,844	4,375	2,832	20,118
15	Syria	-	-	-	1,155	6,381	4,222	1	11,759
16	Italia	-	953	7	-	13	3,408	1,765	6,146
17	Japan	36	96	232	362	233	2,508	1,441	4,908
18	Algeria	-	-	499	453	609	1,084	563	3,208
19	South Africa	-	111	-	-	12	2,009	786	2,918
20	Macao	-	164	468	674	826	582	148	2,862
21	Spain	-	210	4	-	10	1,484	693	2,401
22	China	-	-	-	-	-	1,072	645	1,717
23	Thailand	-	-	-	9	1	1,113	426	1,549
24	Turkey	-	-	6	-	25	1,016	352	1,399
25	New Zealand	-	-	71	269	279	468	212	1,299

26	Fiji Islands	-	-	-	-	-	556	447	1,003
27	Maldives	-	-	22	20	80	638	185	945
28	Australia	-	-	5	-	1	526	363	895
29	Nigeria	-	-	82	81	9	588	88	848
30	Mauritius	-	-	-	-	3	478	359	840
31	Brazil	-	-	-	-	66	313	446	825
32	Netherland	-	10	3	-	1	592	202	808
33	India	-	-	-	2	12	519	236	769
34	Other	143	554	-	-	-	17	-	714
35	Uruguay	-	-	-	-	-	496	195	691
36	Cyprus	-	-	1	-	37	356	295	689
37	Germany	-	10	3	-	1	299	354	667
38	England	-	8	-	-	6	491	119	624
39	Trinidad	-	-	-	-	-	213	382	595
40	Papua New Guinea	-	-	-	-	-	309	239	548
41	Vietnam	-	-	-	-	-	337	179	516
42	Libya	-	-	114	35	251	83	3	486
43	Timor Leste	-	-	3	-	-	425	35	463
44	Swiss	-	-	-	-	-	174	277	451
45	Egypt	-	-	-	2	13	265	130	410
46	Peru	-	-	-	-	-	301	105	406
47	Portugal	-	-	-	-	5	248	117	370
48	Yemen	-	123	90	30	7	59	59	368
49	Russia	-	-	-	-	2	246	106	354
50	France	-	-	-	-	117	153	81	351
51	Other	-	-	80	99	236	3,220	1,710	5,345
Total		680,000	696,746	644,731	632,172	575,803	581,081	188,059	3,998,592

According to data from the National Board for Placement and Protection of Indonesian Migrant Workers (BNP2TKI), in 2013, Indonesian Migrant Workers (TKI) totaled 6.5 million people and spread across 143 countries.⁶

Graph 4
The Placement of Indonesian Migrant Workers Per Year
(from 2011 to 2014)



During 2014, the distribution of the placement of Indonesian migrant workers spreads across the following 25 countries:

Graph 5
Top 25 Employer Countries for Indonesian Migrant Workers
During 2014

NO	COUNTRIES	until 31 October 2014
1	MALAYSIA	107,085
2	TAIWAN	68,874
3	SAUDI ARABIA	38,104
4	HONG KONG	30,208
5	SINGAPORE	25,601
6	UNITED ARAB EMIRATES	15,276
7	OMAN	15,035
8	KOREA SELATAN	9,623
9	BRUNEI DARUSSALAM	9,298
10	THE UNITED STATES	7,839
11	QATAR	6,872
12	BAHRAIN	4,535
13	JAPAN	2,093
14	KUWAIT	1,530

15	TURKEY	1,155
16	ITALY	1,075
17	CHINA	812
18	FIJI ISLANDS	809
19	CANADA	805
20	SPAIN	754
21	MAURITIUS	734
22	NETHERLANDS	664
23	THAILAND	597
24	GERMANY	518
25	TRINIDAD AND TOBAGO	481
26	OTHERS	9,686
TOTAL		360,063

4. Problems Faced by Indonesian Migrant Workers

Although the lure of increased prosperity becomes the main motivation of numbers of Indonesians for working abroad, the risks faced by migrant workers are not low. In addition to the simplest risks, they should also be prepared to face the risk of death, especially the female workers. After completing its field studies, the Indonesian House of Representatives Supervisory Team for Protection of Migrant Workers reports some problems and cases concerning placement and protection of migrant workers. The team claims that problems in the placement and protection of migrant workers can be classified into three categories:

- 1) Pre-Placement Period (from Recruitment to Departure):
 - Non-procedural recruitment. In this phase, the recruitment of prospective migrant workers (CTKI) is often done in non-transparent and illegal ways so it can be ascertained that the process is not in accordance with the Law of PPTKILN (the Placement and Protection of Indonesian Migrant Workers) and illegal.
 - Prospective migrant workers do not have the required documents. They depart illegally.

- There are still many prospective migrant workers who do not receive adequate training or education in accordance with the types of works.
- Prospective migrant workers depart without clear agreements.
- Prospective migrant workers are very antipathetic to the registration of KTKLN (Indonesian Migrant Workers' ID Card) due to the following reasons:
 - They consider KTKLN as a new form of extortion
 - They are charged for making KTKLN
 - KTKLN cannot be made abroad
- Inadequate insurance management policy for migrant workers
- Differences in migrant workers' placement fee

2) Placement Period

- The regulations in the destination countries do not favor the placement of migrant workers, such as immigration problems, thus resulting in the increased number of arrested, convicted or deported workers.
- Frequent occurrence of physical, psychological, sexual and economic abuses. The examples of the abuses of migrant workers are as follows:
 - Rape
 - Abuse from employer, either in the form of mild or severe violence; even committed by the employer's family members
 - Migrant worker criminalization; many migrant workers are charged with murder
 - No humane living facilities (such as bedroom, eating less than 3 times a day, or working hours up to 24 hours/day)
 - Late salary
 - On time salary but the nominal is different from the agreement before departing

- Taken and transferred to another country (third destination country) without migrant workers' knowledge or agreement (human trafficking)
- Payroll deduction for PPTKIS (private recruitment agency) fee
- Problematic PPTKIS

3) Post-Placement Period

- Extortion by local officials at the airport
- Transport security to return home.⁷

The three categories of problems above are interrelated in which all the problems that occur during the pre-departure/recruitment⁸ will result in the emergence of problems in placement period. In addition, legal mechanisms prepared by the Indonesian government for the recruitment and departure of migrant workers are still marred by some unscrupulous extortion done by related institutions as a result of a series of convoluted bureaucracy.

Such conditions lead many migrant workers to prefer shortcut by setting off through illegal way. It seems they feel that this illegal way is easier, practical, and inexpensive. They, however, do not realize that if they leave illegally and use false documents, they will not have a strong legal protection. Furthermore, upon arrival at the workplace in destination countries, they are in a very weak position. This is what makes it difficult to provide maximum protection for migrant workers, thus causing them very prone to unfair treatment.

Based on the data managed by the Ministry of Foreign Affairs and Indonesian Representatives Abroad, from 1 January - 30 September 2014, as many as approximately 12,450 cases involving Indonesian citizens and legal entities

abroad are being addressed. As many as 9,290 cases have been successfully resolved and 3,160 ones are being handled by the Ministry of Foreign Affairs and Indonesian Representatives Abroad. Out of the 12,450 cases, approximately 11,507 (92.43%) cases are those faced by migrant workers; 460 (3.69%) cases are faced by ship crews and 483 (3.88%) cases are faced by other citizens.

Several cases involving citizens abroad (including migrant workers) which are being handled by the Ministry of Foreign Affairs are as follows:

TYPES OF CASES	TOTAL CASES	CASES END	CASES ON GOING
Employment (salary, work accident, too-heavy workload, layoffs, etc.)	1,785	753	1,032
Immigration (Overstay, abuse of residence permits, etc.)	6,610	6191	419
Civil cases (divorce, custody of children, etc.)	23	9	14
Violations of Criminal Law (Drugs, murder, robbery, human trafficking, etc.)	816	243	573
Other (Missing contacts, death, illness, natural disasters and political unrest, etc.)	2,273	1,619	654
TOTAL	11,507	8,815	2,692

According to BNP2TKI, cases involving migrant workers in 2011 are 72,194 cases; in 2012 are 47,620 cases

and in 2013 are 44,087 cases. Even, Indonesian citizens facing death penalty abroad in 2011-2014 are 402 people, of which 164 cases have been successfully addressed and the defendants are released from the threat of death penalty. Most of these cases are faced by migrant workers.

5. Indonesian government's efforts to protect its women migrant workers

To care and protect Indonesian citizens abroad are mandated by the Indonesian constitution as one of its national goals. This is stated in the fourth paragraph of the 1945 Constitution Preamble: "...shall protect the entire Indonesian nation and the entire Indonesian native land..". This constitutional mandate has been described in various provisions of the legislation including Law No. 37/1999 on foreign relations to provide care, protection and legal assistance for the Indonesian citizen and legal entities abroad in accordance with national legislation and international law and practice.

Therefore, since migrant workers are part of the Indonesian citizens abroad, the government is obliged to protect them against problems and cases they face. This is clearly stated in Law No.39/2004 on the placement and protection of migrant workers abroad, reinforced by the Indonesian Presidential Instruction No.6/2006 and technically regulated by the Regulation of Manpower and Transmigration Minister No.PER.14/MEN/X/2010 on the implementation of placement and protection of migrant workers abroad by which the government shall provide protection for migrant workers.⁹

In reality, however, there are still some inconsistencies in the implementation of the law. One of them is inconsistent attitude towards a regulation that states "before departure to the

employer country, all prospective migrant workers must obtain an accredited vocational training”. Despite this regulation, many migrant workers do not get adequate education and training so that they do not have adequate competence to perform their work, do not understand the customs in the employer countries, and cannot speak destination country language properly. This implies that if the government is not able to accomplish this regulation, then it must not send them to work abroad.

The implementation of national policy on the Placement and Protection Services for Indonesian Overseas Workers (P3TKI-LN) must be comprehensive and integrated. This can be achieved through a national commitment to implement cross-regional and sectoral coordination, both vertically and horizontally, with clear proportion of roles and responsibilities between central government, local government, national board of placement and protection of migrant workers (BNP2TKI), and private recruitment agency (PPTKIS).¹⁰

Basically, the government of Indonesia has made several attempts to minimize and resolve cases involving migrant workers abroad, including:

- a. Improving coordination with all relevant local and overseas agencies in an effort to shelter and protect migrant workers.
- b. Providing all Indonesia’s overseas representatives with policy, guidance, and consultation in handling the cases involving migrant workers
- c. Legal approach in the forms of legal assistance and advocacy.
- d. Humanitarian approach in the forms of regular visits for consultation, spiritual counseling, medical treatment and repatriation

- e. Political approach, including: first track diplomacy, G-to-G cooperation with other migrant worker sending countries, second track diplomacy, people to people contacts, G-to-NGO cooperation, and G-to-International organization cooperation.
- f. The opening of citizen service in 6 Indonesian representatives in 2007. In 2008, the Citizen Service was added up to 9 representatives.

Citizen Service is an integrated system of citizen service in Indonesian representatives that aims to improve protection for all Indonesian citizens abroad including migrant workers. Citizen Service is expected by Indonesian government to improve the quality of service and strengthen the protection of Indonesian citizens abroad.

In accordance with the Regulation of Ministry of Foreign Affairs No.4/2008 (Article 4i), citizen service provides some types of services to the citizens and migrant workers abroad, including:

- Collecting data on citizens
- Providing assistance and consular protection
- Providing services and protection of Indonesian citizens working as migrant worker
- Providing services and protection of Indonesian citizens working as ship crew and seamen
- Providing shelter and counseling
- Developing and updating the citizen data base

In addition to these services, the government of Indonesia has stopped sending workers to countries which evidently ignore the migrant workers' rights, something that they are supposed to fairly and humanely get. Thus, Indonesian

government now should be more selective and careful in choosing prospective employer countries.

Legally, the government of Indonesia also has made improvements to the regulations and laws that are considered less supportive for the efforts of protection for migrant workers and has provided each prospective worker with the necessary skills.

The examples of the regulations are as follows:

- a. Presidential decree no.17/2001 on the case handling task force for citizens/migrant workers abroad facing death penalty
- b. Law no.6/2012 on the ratification of the international convention on the protection of the rights of all migrant workers and members of their families.¹¹
- c. Government regulation no.3/2013 on the protection of migrant workers abroad
- d. Government regulation no.4/2013 on the procedures for migrant worker placement by government
- e. Government regulation no.5/2013 on the procedure for assessment and determination of business partners and individual users
- f. Government regulation no.33/2013 on the expansion of employment.
- g. Presidential decree No.64/2011 on the medical and psychological examinations for prospective migrant workers
- h. Presidential decree no.15/2011 on the integrated protection team of migrant workers abroad.¹²

Indeed, these juridical devices to protect migrant workers are not yet optimum, but Indonesian government keeps striving to gradually improve the existing system.

Therefore, through comprehensive, integrated placement and protection services for migrant workers, strong law enforcement and transparency, as well as planned management of foreign labor markets, then the incurred social losses can be minimized as low as possible so that the placement and protection services can be powerful and effective for the improvement of social welfare and state revenue.

In addition to the various attempts that have been made, the government of Indonesia also needs to take decisive, precise and concrete actions so that similar cases are not repeated, including:

In the home country:

- a. Tightening the agency establishment license
- b. Combating rogue recruitment agencies
- c. Conducting intensive monitoring of recruitment agencies in illegal recruitment of prospective workers in local regions.
- d. Opening up and expanding new employment
- e. Reducing the delivery of informal sector workers gradually through a planned system from which the ultimate goal is to stop sending informal workers and to make them to work independently in their home country.
- f. The government needs to persuade and involve self-job creation by conducting skill training for younger generation in accordance with their interests and talents.
- g. Facilitating the provision of loan capital needed to start a business for younger generation to expand new employment, of course with low interest.

5. Conclusion

Migrant workers are very instrumental in reducing unemployment in a country. In addition, they also have dared to risk themselves in improving quality of life and increasing

foreign exchange. However, their presence abroad is not always as smooth as expected. There are always problems/cases they have to face, ranging from language and cultural barriers to legal issues which put most migrant workers as the accused, even some of them receive a death penalty from the employer country.

Several recent cases occurring in several employer countries have proven that migrant workers desperately need the presence of their home state in providing legal guarantees and protection of their fate. In order that migrant workers can get the state's optimum protection of the rights they are supposed to receive, the Indonesian government needs to do a variety of anticipatory measures (prospective migrant workers' pre-departure) regarding: what are the problems abroad that contribute to the complicated position of migrant workers abroad? Once the problems have been identified, the government needs to take decisive actions against offenders that cause misery for migrant workers.

Moreover, the Indonesian government must continue to strive to create new jobs, so that little by little Indonesians' interest in working abroad can be reduced and at a right time, the Indonesian government can stop sending the entire non-formal migrant workers abroad. This is urgently needed to do considering that sending low-skilled migrant workers to informal sector has evidently resulted in the national dignity debased by other countries.

To deal with the problems currently involving migrant workers, the Indonesian government must mobilize all diplomatic efforts and provide migrant workers with maximum legal assistance.

6. Notes

¹⁻ Badan Pusat Statistik, *Laporan Bulanan Data Sosial Ekonomi*, 2014, p. 37

²⁻ Demographic bonus is defined to be that period of time in a nation's demographic evolution when the proportion of population of productive age group is particularly more prominent than that of unproductive age group. Indonesia is currently enjoying this bonus as a result of its success in family planning and national development programs. However, this superior productive population may be burden if its quality does not contribute to alleviating national problems. See <http://id-id.facebook.com/BKKBOnline/posts/559603814101736> and "Demographic Bonus Potential to Grow Economy" on: <http://www.hukumonline.com/berita/baca/lt52f4d97aa7ea3/bonus-demografi-berpotensi-tumbuh-ekonomi> accessed on 17 November 2014.

³⁻ op.cit. *Laporan Bulanan Data Sosial Ekonomi*, p. 44

⁴⁻ Ibid, *Laporan Bulanan Data Sosial Ekonomi*, p.97

⁵⁻ <http://www.bnp2tki.go.id/read/9081/penempatan-per-tahun=per-negara-2006-2012.html>

⁶⁻ DPR-RI, *laporan akhir pelaksanaan tugas tim pengawas DPR RI Terhadap Perlindungan TKI*, Jakarta: September 2014

⁷⁻ Op.cit. *Laporan Akhir Timwas DPR-RI*, p.138-155

⁸⁻ According to The House of Representatives Supervisory Team, 80% of problems in placement and protection of migrant workers comes from the home country. See *ibid. Laporan Akhir Timwas DPR-RI*, p.171

⁹⁻ The law states: Protection of migrant workers is all efforts to protect the interests of prospective migrant workers in realizing the assurance of fulfillment of their rights in accordance with laws and regulations, either before, during, and after work.

<http://www.hukumonline.com/pusatdata/download/lt4feacdbB171/node/19811>

accessed on 11 November 2014.

¹⁰⁻ Exclusive interview with Nurfaizi Suwandi (Apjati's Chairman), published in particular on *Biografi Magazine*, January 2010 edition, p. 13 and 19.

¹¹⁻ *ibid*, exclusive interview with Nurfaizi (Apjati's chairman) p.27

¹²⁻ See op.cit. The final report of The House of Representatives Supervisory Team, p. 172-173

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